CPMG / KA / BG-GPO/13/2003-2005 ಸುವರ್ಣ ಕರ್ನಾಟಕ - 2006



ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರ

ಅಧಿಕೃತವಾಗಿ ಪ್ರಕಟಿಸಲಾದುದು

ಸಂಪುಟ ೧೫೦ ‖ ಬೆಂಗಳೂರು, ಗುರುವಾರ, ನವೆಂಬರ್, ೨೫ ೨೦೦೪ (ಮಾರ್ಗಶಿರ ೩, ಶಕ ವರ್ಷ ೧೯೨೬) ‖ ಸಂಚಿಕೆ ೫೬

ಭಾಗ - ೫

ಕೇಂದ್ರದ ವಿಧೇಯಕಗಳು ಮತ್ತು ಅವುಗಳ ಮೇಲೆ ಪರಿಶೀಲನಾ ಸಮಿತಿಯ ವರದಿಗಳು, ಕೇಂದ್ರದ ಅಧಿನಿಯಮಗಳು ಮತ್ತು ಅಧ್ಯಾದೇಶಗಳು, ಕೇಂದ್ರ ಸರ್ಕಾರದವರು ಹೊರಡಿಸಿದ ಸಾಮಾನ್ಯ ಶಾಸನಬದ್ಧ ನಿಯಮಗಳು ಮತ್ತು ಶಾಸನಬದ್ಧ ಆದೇಶಗಳು ಮತ್ತು ರಾಷ್ಟ್ರಪತಿಯವರಿಂದ ರಚಿತವಾಗಿ ರಾಜ್ಯ ಸರ್ಕಾರದವರಿಂದ ಪುನಃ ಪ್ರಕಟವಾದ ಆದೇಶಗಳು.

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಸಚಿವಾಲಯ

ಅಧಿಸೂಚನೆ

ಸಂಖ್ಯೆ: ಸಂವ್ಯಶಾಇ 35 ಕೇಶಾಪ್ರ 2004, ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 17ನೇ ನವೆಂಬರ್ 2004

2004ನೇ ಸಾಲಿನ ಸೆಪ್ಟೆಂಬರ್ 21ನೇ ದಿನಾಂಕದ ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟ್‌ನ ವಿಶೇಷ ಸಂಚಿಕೆಯ ಭಾಗ-II ಸೆಕ್ಷನ್ 1 ರಲ್ಲಿ ಪ್ರಕಟವಾದ ಈ ಕೆಳಕಂಡ The Unlawful Activities (Prevention) Amendment Ordinance, 2004 (No. 2 of 2004) ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯ ಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, dated the 21st September, 2004/Bhadra 30, 1926 (Saka)

THE UNLAWFUL ACTIVITIES (PREVENTION) AMENDMENT ORDINANCE, 2004

No. 2 OF 2004

Promulgated by the President in the Fifty-fifth Year of the Republic of India.

An Ordinance further to amend the Unlawful Activities (Prevention) Act, 1967.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action ;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance :-

1. **Short title and commencement**.- (1) This Ordinance may be called the Unlawful Activities (Prevention) Amendment Ordinance, 2004.

(2) It shall come into force at once.

2. **Amendment of long title**.- In the Unlawful Activities (Prevention) Act, 1967 (37 of 1967) (hereinafter referred to as the principal Act), in the long title, after the word "associations", the words, "and for dealing with terrorist activities," shall be inserted.

3. **Substitution of word "Code" for "Code of Criminal Procedure, 1898"**.- In the principal Act, for the words and figures "Code of Criminal Procedure, 1898", wherever they occur, the word "Code" shall be substituted.

4. **Amendment of Chapter I**.- In Chapter I of the principal Act, for sections 1, 2 and 2A, the following sections shall be substituted, namely:-

'1. **Short title, extent and application**.- (1) This Act may be called the Unlawful Activities (Prevention) Act, 1967.

(2) It extends to the whole of India.

(3) Every person shall be liable to punishment under this Act for every act or omission contrary to the provisions thereof, of which he is held guilty in India.

(4) Any person, who commits an offence beyond India, which is punishable under this Act, shall be dealt with according to the provisions of this Act in the same manner as if such act had been committed in India.

(5) The provisions of this Act apply also to-

(a) citizens of India outside India;

(b) persons in the service of the Government, wherever they may be; and

(c) persons on ships and aircrafts, registered in India, wherever they may be.

2. **Definitions**.- (1) In this Act, unless the context otherwise requires,-

(a) "association" means any combination or body of individuals;

(b) "cession of a part of the territory of India" includes admission of the claim of any foreign country to any such part;

(c) "Code" means the Code of Criminal Procedure, 1973 (2 of 1974);

(d) "court" means a criminal court having jurisdiction, under the Code, to try offences under this Act;

(e) "Designated Authority" means such officer of the Central Government not below the rank of Joint Secretary to that Government, or such officer of the State Government not below the rank of Secretary to that Government, as the case may be, as may be specified by the Central Government or the State Government, by notification published in the Official Gazette;

(f) "prescribed" means prescribed by rules made under this Act;

(g) "proceeds of terrorism" means all kinds of properties which have been derived or obtained from commission of any terrorist act or have been acquired through funds traceable to a terrorist act, irrespective of person in whose name such proceeds are standing or in whose possession they are found, and includes any property which is being used, or is intended to be used, for the purpose of a terrorist organisation;

(h) "property" means property and assets of every description, whether corporeal or incorporeal, movable or immovable, tangible or intangible and deeds and instruments evidencing title to, or interest in, such property or assets, and includes cash and bank account;

(i) "secession of a part of the territory of India from the Union" includes the assertion of any claim to determine whether such part will remain a part of the territory of India ;

(j) "State Government", in relation to a Union territory, means the Administrator thereof;

(k) "terrorist act" has the meaning assigned to it in section 15, and the expressions "terrorism" and "terrorist" shall be construed accordingly;

(l) "terrorist gang" means any association, other than terrorist organisation, whether systematic or otherwise, which is concerned with, or involved in, terrorist act;

(m) "terrorist organisation" means an organisation listed in the Schedule or an organisation operating under the same name as an organisation so listed;

(n) "Tribunal" means the Tribunal constituted under section 5;

(o) "unlawful activity", in relation to an individual or association, means any action taken by such individual or association (whether by committing an act or by words, either spoken or written, or by signs or by visible representation or otherwise),-

(i) which is intended, or supports any claim, to bring about, on any ground whatsoever, the cession of a part of the territory of India or the secession of a part of the territory of India from the Union, or which incites any individual or group of individuals to bring about such cession or secession; or

(ii) which disclaims, questions, disrupts or is intended to disrupt the sovereignty and territorial integrity of India; or

(iii) which causes or is intended to cause disaffection against India;

(p) "unlawful association" means any association,-

(i) which has for its object any unlawful activity, or which encourages or aids persons to undertake any unlawful activity, or of which the members undertake such activity; or

(ii) which has for its object any activity which is punishable under section 153A or section 153B of the Indian Penal Code (45 of 1860), or which encourages or aids persons to undertake any such activity, or of which the members undertake any such activity:

Provided that nothing contained in sub-clause (ii) shall apply to the State of Jammu and Kashmir;

(q) words and expressions used but not defined in this Act and defined in the Code shall have the meanings respectively assigned to them in the Code.

(2) Any reference in this Act to any enactment or any provision thereof shall, in relation to an area in which such enactment or such provision is not in force, be construed as a reference to the corresponding law or the relevant provision of the corresponding law, if any, in force in that area.'.

5. Amendment of section 5.- In section 5 of the principal Act, in sub-section (7), for the word and figures "Chapter XXXV", the word and figures "Chapter XXVI" shall be substituted.

6.Substitution of new section for section 10.- For section 10 of the principal Act, the following section shall be substituted, namely:-

"10. **Penalty for being member of an unlawful association, etc**.- Where an association is declared unlawful by a notification issued under section 3 which has become effective under sub-section (3) of that section,-

(a) a person, who-

(i) is and continues to be a member of such association; or

(ii) takes part in meetings of such association; or

(iii) contributes to, or receives or solicits any contribution for the purpose of, such association; or

(iv) in any way assists the operations of such association,

shall be punishable with imprisonment for a term which may extend to two years, and shall also be liable to fine; and

(b) a person, who is or continues to be a member of such association, or voluntarily does an act aiding or promoting in any manner the objects of such association and in either case is in possession of any unlicensed firearms, ammunition, explosive or other instrument or substance capable of causing mass destruction and commits any act resulting in loss of human life or grievous injury to any person or causes significant damage to any property,-

(i) and if such act has resulted in the death of any person, shall be punishable with death or imprisonment for life, and shall also be liable to fine;

(ii) in any other case, shall be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life, and shall also be liable to fine.".

7. **Substitution of new Chapters and Schedule for Chapter IV**.- For Chapter IV of the principal Act, the following Chapters and the Schedule shall be substituted, namely:-

'CHAPTER IV

PUNISHMENT FOR TERRORIST ACTIVITIES

15. **Terrorist Act**.- Whoever, with intent to threaten the unity, integrity, security or sovereignty of India or to strike terror in the people or any section of the people in India or in any foreign country, does any act by using bombs, dynamite or other explosive substances or inflammable substances or firearms or other lethal weapons or poisons or noxious gases or other chemicals or by any other substances (whether biological or otherwise) of a hazardous nature, in such a manner as to cause, or likely to cause, death of, or injuries to any person or persons or loss of, or damage to, or destruction of, property or disruption of any supplies or services essential to the life of the community in India or in any foreign country or causes damage or destruction of any property or equipment used or intended to be used for the defence of India or in connection with any other purposes of the Government of India, any State Government or any of their agencies, or detains any person and threatens to kill or injure such person in order to compel the Government in India or the Government of a foreign country or any other person to do or abstain from doing any act, commits a terrorist act.

16. **Punishment for terrorist act**.- (1) Whoever commits a terrorist act shall,-

(a) if such act has resulted in the death of any person, be punishable with death or imprisonment for life, and shall also be liable to fine;

(b) in any other case, be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life, and shall also be liable to fine.

17. **Punishment for raising fund for terrorist act**.- Whoever raises fund for the purpose of committing a terrorist act shall be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life, and shall also be liable to fine.

18. **Punishment for conspiracy, etc**.- Whoever conspires or attempts to commit, or advocates, abets, advises or incites or knowingly facilitates the commission of, a terrorist act or any act preparatory to the commission of a terrorist act, shall be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life, and shall also be liable to fine.

19. **Punishment for harbouring, etc**.- Whoever voluntarily harbours or conceals, or attempts to harbour or conceal any person knowing that such person is a terrorist shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to imprisonment for life, and shall also be liable to fine:

Provided that this section shall not apply to any case in which the harbour or concealment is by the spouse of the offender.

20. **Punishment for being member of terrorist gang or organization**.- Any person who is a member of a terrorist gang or a terrorist organisation, which is involved in terrorist act, shall be punishable with imprisonment for a term which may extend to imprisonment for life, and shall also be liable to fine.

21. **Punishment for holding proceeds of terrorism**.- Whoever knowingly holds any property derived or obtained from commission of any terrorist act or acquired through the terrorist fund shall be punishable with imprisonment for a term which may extend to imprisonment for life, and shall also be liable to fine.

22. **Punishment for threatening witness**.- Whoever threatens any person who is a witness or any other person in whom such witness may be interested, with violence, or wrongfully restrains or confines the witness, or any other person in whom the witness may be interested, or does any other unlawful act with intent to cause any of the said acts, shall be punishable with imprisonment which may extend to three years, and shall also be liable to fine.

23. **Enhanced penalties**.- (1) If any person with intent to aid any terrorist contravenes any provision of, or any rule made under the Explosives Act, 1884 (4 of 1884) or the Explosive Substances Act, 1908 (6 of 1908) or the Inflammable Substances Act, 1952 (20 of 1952) or the Arms Act, 1959 (54 of 1959), or is in unauthorised possession of any bomb, dynamite or hazardous explosive substance or other lethal weapon or substance capable of mass destruction or biological or chemical substance of warfare, he shall, notwithstanding anything contained in any of the aforesaid Acts or the rules made thereunder, be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life, and shall also be liable to fine.

(2) Any person who, with intent to aid any terrorist, attempts to contravene or abets, or does any act preparatory to contravention of any provision of any law or rule specified in sub-section (1), shall be deemed to have contravened that provision under sub-section (1) and the provisions of that sub-section in relation to such person, have effect subject to the modification that the reference to “imprisonment for life” therein shall be construed as a reference to “imprisonment for ten years”.

CHAPTER V

FORFEITURE OF PROCEEDS OF TERRORISM

24. **Forfeiture of proceeds of terrorism**.-(1) No person shall hold or be in possession of any proceeds of terrorism.

(2) Proceeds of terrorism, whether held by a terrorist or by any other person and whether or not such terrorist or other person is prosecuted or convicted for any offence under Chapter IV or Chapter VI, shall be liable to be forfeited to the Central Government or the State Government, as the case may be, in the manner provided under this Chapter.

25. **Powers of investigating officer and Designated Authority and appeal against order of Designated Authority**.- (1) If an officer investigating an offence committed under Chapter IV or Chapter VI, has reason to believe that any property in relation to which an investigation is being conducted, represents proceeds of terrorism, he shall, with the prior approval in writing of the Director General of the Police of the State in which such property is situated, make an order seizing such property and where it is not practicable to seize such property, make an order of attachment directing that such property shall not be transferred or otherwise dealt with except with the prior permission of the officer making such order, or of the Designated Authority before whom the property seized or attached is produced and a copy of such order shall be served on the person concerned.

(2) The investigating officer shall duly inform the Designated Authority within forty-eight hours of the seizure or attachment of such property.

(3) The Designated Authority before whom the seized or attached property is produced shall either confirm or revoke the order of seizure or attachment so issued within a period of sixty days from the date of such production:

Provided that an opportunity of making a representation by the person whose property is being seized or attached shall be given.

(4) In the case of immovable property attached by the investigating officer, it shall be deemed to have been produced before the Designated Authority, when the investigating officer notifies his report and places it at the disposal of the Designated Authority.

(5) The investigating officer may seize and detain any cash to which this Chapter applies if he has reasonable grounds for suspecting that-

(a) it is intended to be used for the purposes of terrorism; or

(b) it forms the whole or part of the resources of a terrorist organisation:

Provided that the cash seized under this sub-section by the investigating officer shall be released within a period of forty-eight hours beginning with the time when it is seized unless the involving the cash is before the Designated Authority and such Authority passes an order allowing its retention beyond forty-eight hours.

Explanation.- For the purposes of this sub-section, “cash” means-

(a) coins or notes in any currency;

(b) postal orders;

(c) traveller’s cheques;

(d) banker’s drafts; and

(e) such other monetary instruments as the Central Government or, as the case may be, the State Government may specify by an order made in writing.

(6) Any person aggrieved by an order made by the Designated Authority may prefer an appeal to the court within a period of thirty days from the date of receipt of the order, and the court may either confirm the order of attachment of property or seizure so made or revoke such order and release the property.

26. **Court to order forfeiture of proceeds of terrorism**.- Where any property is seized or attached on the ground that it constitutes proceeds of terrorism and the court confirms the order in this regard under sub-section (6) of section 25, it may order forfeiture of such property, whether or not the person from whose possession it is seized or attached, is prosecuted in a court for an offence under Chapter IV or Chapter VI.

27. **Issue of show cause notice before forfeiture of proceeds of terrorism**.- (1) No order forfeiting any proceeds of terrorism shall be made under section 26 unless the person holding or in possession of such proceeds is given a notice in writing informing him of the grounds on which it is proposed to forfeit the proceeds of terrorism and such person is given an opportunity of making a representation in writing within such reasonable time as may be specified in the notice against the grounds of forfeiture and is also given a reasonable opportunity of being heard in the matter.

(2) No order of forfeiture shall be made under sub-section (1), if such person establishes that he is a bona fide transferee of such proceeds for value without knowing that they represent proceeds of terrorism.

(3) It shall be competent for the court to make an order in respect of property seized or attached,-

(a) directing it to be sold if it is a perishable property and the provisions of section 459 of the Code shall, as nearly as may be practicable, apply to the net proceeds of such sale;

(b) nominating any officer of the Central Government or the State Government, in the case of any other property, to perform the function of the Administrator of such property subject to such conditions as may be specified by the court.

28. **Appeal**.- (1) Any person aggrieved by an order of forfeiture under section 26 may, within one month from the date of the receipt of such order, appeal to the High Court within whose jurisdiction, the court, which passed the order appealed against, is situated.

(2) Where an order under section 26 is modified or annulled by the High Court or where in a prosecution instituted for any offence under Chapter IV or Chapter VI, the person against whom an order of forfeiture has been made under section 26 is acquitted, such property shall be returned to him and in either case if it is not possible for any reason to return the forfeited property, such person shall be paid the price therefor as if the property had been sold to the Central Government with reasonable interest calculated from the day of seizure of the property and such price shall be determined in the manner prescribed.

29. **Order for forfeiture not to interfere with other punishments**.-The order of forfeiture made under this Chapter by the court, shall not prevent the infliction of any other punishment to which the person affected thereby is liable under Chapter IV or Chapter VI.

30. **Claims by third party**.- (1) Where any claim is preferred or any objection is made to the seizure or attachment of any property under section 25 on the ground that such property is not liable to seizure or attachment, the Designated Authority before whom such property is produced, shall proceed to investigate the claim or objection:

Provided that no such investigation shall be made where the Designated Authority considers that the claim or objection is designed to cause unnecessary delay.

(2) Where an appeal has been preferred under sub-section (6) of section 25 and any claimant or objector establishes that the property specified in the notice issued under section 27 is not liable to be forfeited under this Chapter, the said notice shall be withdrawn or modified accordingly.

31. **Powers of Designated Authority**.- The Designated Authority, acting under the provisions of this Chapter, shall have all the powers of a civil court required for making a full and fair inquiry into the matter before it.

32. **Certain transfers to be null and void**.- Where, after the issue of an order under section 25 or issue of a notice under section 27, any property referred to in the said order or notice is transferred by any mode whatsoever, such transfer shall, for the purpose of the proceedings under this Chapter, be ignored and if such property is subsequently forfeited, the transfer of such property shall be deemed to be null and void.

33. **Forfeiture of property of certain persons**.- (1) Where any person is accused of an offence under Chapter IV or Chapter VI, it shall be open to the court to pass an order that all or any of the properties, movable or immovable or both, belonging to him, shall, during the period of such trial, be attached, if not already attached under this Chapter.

(2) Where a person has been convicted of any offence punishable under Chapter IV or Chapter VI, the court may, in addition to awarding any punishment, by order in writing, declare that any property, movable or immovable or both, belonging to the accused and specified in the order, shall stand forfeited to the Central Government or the State Government, as the case may be, free from all encumbrances.

34. **Company to transfer shares to Government**.- Where any share in a company stand forfeited to the Central Government or the State Government, as the case may be, under this Chapter, then, the companyshall, on receipt of the order of the court, notwithstanding anything contained in the Companies Act, 1956 (1 of 1956), or the articles of association of the company, forthwith register the Central Government or the State Government, as the case may be, as the transferee of such share.

CHAPTER VI
TERRORIST ORGANISATIONS

35. **Amendment of Schedule, etc**.- (1) The Central Government may, by order, in the Official Gazette,-

(a) add an organisation to the Schedule;

(b) add also an organisation in the Schedule, which is identified as a terrorist organisation in a resolution adopted by the Security Council under Chapter VII of the Charter of the United Nations, to combat international terrorism;

(c) remove an organisation from the Schedule;

(d) amend the Schedule in some other way.

(2) The Central Government shall exercise its power under clause (a) of sub-section (1) in respect of an organisation only if it believes that it is involved in terrorism.

(3) For the purposes of sub-section (2), an organisation shall be deemed to be involved in terrorism if it-

(a) commits or participates in acts of terrorism, or

(b) prepares for terrorism, or

(c) promotes or encourages terrorism, or

(d) is otherwise involved in terrorism.

36. **Denotification of a terrorist organization**.- (1) An application may be made to the Central Government for the exercise of its power under clause (c) of sub-section (1) of section 35 to remove an organisation from the Schedule.

(2) An application under sub-section (1)may be made by-

(a) the organisation, or

(b) any person affected by inclusion of the organisation in the Schedule as a terrorist organisation.

(3) The Central Government may prescribe the procedure for admission and disposal of an application made under this section.

(4) Where an application under sub-section (1) has been rejected the applicant may apply for a review to the Review Committee constituted by the Central Government under sub-section (1) of section 37 within one month from the date of receipt of the order of such rejection by the applicant.

(5) The Review Committee may allow an application for review against rejection to remove an organisation from the Schedule, if it considers that the decision to reject was flawed when considered in the light of the principles applicable on an application for judicial review.

(6) Where the Review Committee allows review under sub-section (5) by or in respect of an organisation, it may make an order to such effect.

(7) Where an order is made under sub-section (6), the Central Government shall, as soon as the certified copy of the order is received by it, make an order removing the organisation from the Schedule.

37. **Review Committees**.- (1) The Central Government shall constitute one or more Review Committees for the purposes of section 36.

(2) Every such Committee shall consist of a Chairperson and such other members not exceeding three and possessing such qualifications as may be prescribed.

(3) A Chairperson of the Committee shall be a person who is, or has been, a Judge of a High Court, who shall be appointed by the Central Government and in the case of appointment of a sitting Judge, the concurrence of the Chief Justice of the concerned High Court shall be obtained.

38. **Offence relating to membership of a terrorist organization**.- (1) A person, who associates himself, or professes to be associated, with a terrorist organisation with intention to further its activities, commits an offence relating to membership of a terrorist organisation:

Provided that this sub-section shall not apply where the person charged is able to prove-

(a) that the organisation was not declared as a terrorist organisation at the time when he became a member or began to profess to be a member; and

(b) that he has not taken part in the activities of the organisation at any time during its inclusion in the Schedule as a terrorist organisation.

(2) A person, who commits the offence relating to membership of a terrorist organisation under sub-section (1), shall be punishable with imprisonment for a term not exceeding ten years, or with fine, or with both.

39. **Offence relating to support given to a terrorist organization**.- (1) A person commits the offence relating to support given to a terrorist organisation,-

(a) who, with intention to further the activity of a terrorist organisation,-

(i) invites support for the terrorist organisation, and

(ii) the support is not or is not restricted to provide money or other property within the meaning of section 40; or

(b) who, with intention to further the activity of a terrorist organisation, arranges, manages or assists in arranging or managing a meeting which he knows is-

(i) to support the terrorist organisation, or

(ii) to further the activity of the terrorist organisation, or

(iii) to be addressed by a person who associates or professes to be associated with the terrorist organisation; or

(c) who, with intention to further the activity of a terrorist organisation, addresses a meeting for the purpose of encouraging support for the terrorist organisation or to further its activity.

(2) A person, who commits the offence relating to support given to a terrorist organisation under sub-section (1) shall be punishable with imprisonment for a term not exceeding ten years, or with fine, or with both.

40. **Offence of raising fund for a terrorist organization**.- (1) A person commits the offence of raising fund for a terrorist organisation, who, with intention to further the activity of a terrorist organisation,-

(a) invites another person to provide money or other property, and intends that it should be used, or has reasonable cause to suspect that it might be used, for the purposes of terrorism; or

(b) receives money or other property, and intends that it should be used, or has reasonable cause to suspect that it might be used, for the purposes of terrorism; or

(c) provides money or other property, and knows, or has reasonable cause to suspect, that it would or might be used for the purposes of terrorism.

Explanation.- For the purposes of this sub-section, a reference to provide money or other property includes of its being given, lent or otherwise made available, whether or not for consideration.

(2) A person, who commits the offence of raising fund for a terrorist organisation under sub-section (1), shall be punishable with imprisonment for a term not exceeding fourteen years, or with fine, or with both.

CHAPTER VII
MISCELLANEOUS

41. **Continuance of association**.- An association shall not be deemed to have ceased to exist by reason only of any formal act of its dissolution or change of name but shall be deemed to continue so long as any actual combination for the purposes of such association continues between any members thereof.

42. **Power to delegate**.- The Central Government may, by notification in the Official Gazette, direct that all or any of the powers which may be exercised by it under section 7, or section 8, or both, shall, in such circumstances and under such conditions, if any, as may be specified in the notification, be exercised also by any State Government and the State Government may, with the previous approval of the Central Government, by order in writing, direct that any power which has been directed to be exercised by it shall, in such circumstances and under such conditions, if any, as may be specified in the direction, be exercised by any person subordinate to the State Government as may be specified therein.

43. **Officers competent to investigate offences under Chapter IV and VI**.- Notwithstanding anything contained in the Code, no police officer,-

(a) in the case of the Delhi Special Police Establishment, constituted under sub-section (1) of section 2 of the Delhi Special Police Establishment Act, 1946 (25 of 1946), below the rank of a Deputy Superintendent of Police or a police officer of equivalent rank;

(b) in the metropolitan areas of Mumbai, Kolkata, Chennai and Ahmedabad and any other metropolitan area notified as such under sub-section (1) of section 8 of the Code, below the rank of an Assistant Commissioner of Police;

(c) in any case not relatable to clause (a) or clause (b), below the rank of a Deputy Superintendent of Police or a police officer of an equivalent rank,

shall investigate any offence punishable under Chapter IV or VI.

44. **Protection of witnesses**.- (1) Notwithstanding anything contained in the Code, the proceedings under this Act may, for reasons to be recorded in writing, be held in camera if the court so desires.

(2) A court, if on an application made by a witness in any proceeding before it or by the Public Prosecutor in relation to such witness or on its own motion, is satisfied that the life of such witness is in danger, it may, for reasons to be recorded in writing, take such measures as it deems fit for keeping the identity and address of such witness secret.

(3) In particular, and without prejudice to the generality of the provisions of sub-section (2), the measures which a court may take under that sub-section may include-

(a) the holding of the proceedings at a place to be decided by the court;

(b) the avoiding of the mention of the name and address of the witness in its orders or judgments or in any records of the case accessible to public;

(c) the issuing of any directions for securing that the identity and address of the witness are not disclosed;

(d) a decision that it is in the public interest to order that all or any of the proceedings pending before such a court shall not be published in any manner.

(4) Any person who contravenes any decision or direction issued under sub-section (3) shall be punishable with imprisonment for a term which may extend to three years, and shall also be liable to fine.

45. **Cognizance of offences**.-No court shall take cognizance of any offence-

(i) under Chapter III without the previous sanction of the Central Government or any officer authorised by the Central Government in this behalf;

(ii) under Chapters IV and VI without the previous sanction of the Central Government or, as the case may be, the State Government, and where such offence is committed against the Government of a foreign country without the previous sanction of the Central Government.

46. **Admissibility of evidence collected through the interception of communications**.- Notwithstanding anything contained in the Indian Evidence Act, 1872 (1 of 1872) or any other law for the time being in force, the evidence collected through the inter-ception of wire, electronic or oral communication under the provisions of the Indian Telegraph Act, 1885 (13 of 1885) or the Information Technology Act, 2000 (21 of 2000) or any other law for the time being in force, shall be admissible as evidence against the accused in the court during the trial of a case:

Provided that the contents of any wire, electronic or oral communication intercepted or evidence derived therefrom shall not be received in evidence or otherwise disclosed in any trial, hearing or other proceeding in any court unless each accused has been furnished with a copy of the order of the competent authority under the aforesaid law, under which the interception was directed, not less than ten days before trial, hearing or proceeding:

Provided further that the period of ten days may be waived by the judge trying the matter, if he comes to the conclusion that it was not possible to furnish the accused with such order ten days before the trial, hearing or proceeding and that the accused shall not be prejudiced by the delay in receiving such order.

47. **Bar of jurisdiction**.- (1) Save as otherwise expressly provided in this Act, no proceeding taken under this Act by the Central Government or the District Magistrate or any officer authorised in this behalf by the Central Government or the District Magistrate, shall be called in question in any civil court in any suit or application or by way of appeal or revision, and no injunction shall be granted by any civil court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

(2) Notwithstanding anything contained in sub-section (1), no civil court or other authority shall have, or be entitled to exercise, any jurisdiction, powers or authority in relation to the matters referred to in section 36.

48. **Effect of Act and rules, etc., inconsistent with other enactments**.-The provisions of this Act or any rule or order made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or any instrument having effect by virtue of any enactment other than this Act.

49. **Protection of action taken in good faith**.-No suit, prosecution or other legal proceeding shall lie against-

(a) the Central Government or a State Government or any officer or authority of the Central Government or State Government or District Magistrate or any officer authorised in this behalf by the Government or the District Magistrate or any other authority on whom powers have been conferred under this Act, for anything which is in good faith done or purported to be done in pursuance of this Act or any rule or order made thereunder; and

(b) any serving or retired member of the armed forces or para-military forces in respect of any action taken or purported to be taken by him in good faith, in the course of any operation directed towards combating terrorism.

50. **Saving**.-Nothing in this Act shall affect the jurisdiction exercisable by, or the procedure applicable to, any court or other authority under any law relating to the navy, army or air force or other armed forces of the Union.

51. **Impounding of passport and arms licence of person chargesheeted under the Act**.-Notwithstanding anything contained in any other law for the time being in force, the passport and the arms licence of a person, who is charge-sheeted for having committed any offence under this Act, shall be deemed to have been impounded for such period as the court may deem fit.

52. **Power to make rules**.-(1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:-

(a) the service of notices or orders issued or made under this Act and the manner in which such notices or orders may be served, where the person to be served is a corporation, company, bank or other association;

(b) the procedure to be followed by the Tribunal or a District Judge in holding any inquiry or disposing of any application under this Act;

(c) determination of the price of the forfeited property under sub-section (2) of section 28;

(d) the procedure for admission and disposal of an application under sub-section (3) of section 36;

(e) the qualifications of the members of the Review Committee under sub-section (2) of section 37; and

(f) any other matter which is required to be, or may be, prescribed.

53. **Orders and rules to be laid before hoth Houses of Parliament**.- Every order and every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the order or rule or both Houses agree that the order or rule should not be made, the order or rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that order or rule.

[See sections 2(1)(m) and 35]

TERRORIST ORGANISATIONS

1. BABBAR KHALSA INTERNATIONAL.
2. KHALISTAN COMMANDO FORCE.
3. KHALISTAN ZINDABAD FORCE.
4. INTERNATIONAL SIKH YOUTH FEDERATION.
5. LASHKAR-E-TAIBA/PASBAN-E-AHLE HADIS.
6. JAISH-E-MOHAMMED/TAHRIK-E-FURQAN.
7. HARKAT-UL-MUJAHIDEEN/HARKAT-UL-ANSAR/HARKAT-UL-JEHAD-E-ISLAMI.
8. HIZB-UL-MUJAHIDEEN/HIZB-UL-MUJAHIDEEN PIR PANJAL REGIMENT.
9. AL-UMAR-MUJAHIDEEN.
10. JAMMU AND KASHMIR ISLAMIC FRONT.
11. UNITED LIBERATION FRONT OF ASSAM (ULFA).
12. NATIONAL DEMOCRATIC FRONT OF BODOLAND (NDFB).
13. PEOPLE'S LIBERATION ARMY (PLA).
14. UNITED NATIONAL LIBERATION FRONT (UNLF).
15. PEOPLE'S REVOLUTIONARY PARTY OF KANGLEIPAK (PREPAK).
16. KANGLEIPAK COMMUNIST PARTY (KCP).
17. KANGLEI YAOL KANBA LUP (KYKL).
18. MANIPUR PEOPLE'S LIBERATION FRONT (MPLF).
19. ALL TRIPURA TIGER FORCE.
20. NATIONAL LIBERATION FRONT OF TRIPURA.
21. LIBERATION TIGERS OF TAMIL EELAM (LTTE).
22. STUDENTS ISLAMIC MOVEMENT OF INDIA.
23. DEENDAR ANJUMAN.
24. COMMUNIST PARTY OF INDIA (MARXIST-LENINIST)-PEOPLE'S WAR, ALL ITS FORMATIONS AND FRONT ORGANISATIONS.
25. MAOIST COMMUNIST CENTRE (MCC), ALL ITS FORMATIONS AND FRONT ORGANISATIONS.
26. AL BADR.
27. JAMIAT-UL-MUJAHIDDEN.
28. AL-QAIDA.
29. DUKHTARAN-E-MILLAT (DEM).
30. TAMIL NADU LIBERATION ARMY (TNLA).
31. TAMIL NATIONAL RETRIEVAL TROOPS (TNRT).
32. AKHIL BHARAT NEPALI EKTA SAMAJ (ABNES).'.

A.P.J. ABDUL KALAM
President.

T. K. VISWANATHAN,
Secy. to the Govt. of India

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ,

ಕೆ. ನೀಲಕಂಠಾಚಾರ್

ಸಹಾಯಕ ಪ್ರಾರೂಪಕಾರ ಮತ್ತು ಪದನಿಮಿತ್ತ
ಸರ್ಕಾರದ ಅಧೀನ ಕಾರ್ಯದರ್ಶಿ (ಪ್ರಭಾರ),
ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ.

PR-211

ಅಧಿಸೂಚನೆ

ಸಂಖ್ಯೆ: ಸಂವ್ಯಶಾಇ 34 ಕೇಶಾಪ್ರ 2004, ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 17ನೇ ನವೆಂಬರ್ 2004

2004ನೇ ಸಾಲಿನ ಸೆಪ್ಟೆಂಬರ್ 24ನೇ ದಿನಾಂಕದ ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟ್‌ನ ವಿಶೇಷ ಸಂಚಿಕೆಯ ಭಾಗ-II ಸೆಕ್ಷನ್ 1 ರಲ್ಲಿ ಪ್ರಕಟವಾದ ಈ ಕೆಳಕಂಡ The Banking Regulation (Amendment) and Miscellaneous Privisions Ordinance, 2004 (No. 3 of 2004) ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯ ಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ.

MINISTRY OF LAW AND JUSTICE
(Legislative Department)
New Delhi, dated the 24st September, 2004/Asvina 2, 1926 (Saka)

THE BANKING REGULATION (AMENDMENT) AND MISCELLANEOUS PROVISIONS ORDINANCE, 2004

No. 3 OF 2004

Promulgated by the President in the Fifty-fifth Year of the Republic of India.

An Ordinance further to amend the Banking Regulation Act, 1949 and the Deposit Insurance Credit Guarantee Corporation Act, 1961.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action ;

NOW THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance :-

CHAPTER 1
PRELIMINARY

1. **Short title and commencement**.- (1) This Ordinance may be called the Banking Regulation (Amendment) and Miscellaneous Provisions Act, 2004.

(2) Save as otherwise provided in this Ordinance, the provisions of this Ordinance shall come into force at once.

CHAPTER II
AMENDMENTS TO THE BANKING REGULATION ACT, 1949

2. **Amendment of section 56 of Act 10 of 1949**.- In Part V of the Banking Regulation Act, 1949 (hereafter referred to as the principal Act), in the provisions of the principal Act as applied to, or in relation to, co-operative societies, by section 56,-

(I) in section 5 of the principal Act, as amended by sub-clause (i) of clause (c) of the said section 56,-

(A) after clause (ccii), the following clause shall be inserted and shall be deemed to have been inserted with effect from the 1st day of March, 1966, namely:-

'(cciii) "co-operative society" means a society registered or deemed to have been registered under any Central Act for the time being in force relating to the multi-State co-operative societies, or any other Central or State law relating to co-operative societies, for the time being in force;';

(B) after clause (cciii), the following clauses shall be inserted and shall be deemed to have been inserted with effect from the 1st day of March, 1966, namely:-

'(cciiia) "multi-State co-operative bank" means a multi-State co-operative society which is a primary co-operative bank;

(cciiib) "multi-State co-operative society" means a multi-State co-operative society registered as such under any Central Act for the time being in force relating to the multi-State co-operative societies but does not include a national co-operative society and a federal co-operative;';

(C) in clause (ccvii), the words "co-operative society" shall be omitted and shall be deemed to have been omitted with effect fro the 1st day of March, 1966;

(II) after section 22 of the principal Act, as amended by clause (o) of the said section 56, the following section shall be inserted, namely:-

"22A. Validation of licences granted by Reserve Bank to multi-State co-operative societies.-Notwithstanding anything contained in any law or, judgement delivered or decree or order of any court made,-

(a) no licence, granted to a multi-State co-operative society by the Reserve Bank under section 22, which was subsisting on the date of commencement of the Banking Regulation (Amendment) and Miscellaneous Provisions Ordinance, 2004, shall be invalid or be deemed ever to have been invalid merely by the reason of such judgement, decree or order;

(b) every licence, granted to a multi-State co-operative society by the Reserve Bank under section 22, which was subsisting on the date of commencement of the Banking Regulation (Amendment) and Miscellaneous Provisions Ordinance, 2004, shall be valid and be deemed always to have been validly granted in accordance with law;

(c) a multi-State co-operative society whose application for grant of licence for carrying on banking business was pending with the Reserve Bank on the date of commencement of the Banking Regulation (Amendment) and Miscellaneous Provisions Ordinance, 2004 shall be eligible to carry on banking business until it is granted a licence in pursuance of section 22 or is, by a notice in writing notified by the Reserve Bank that the licence cannot be granted to it;";

(III) for clause (zaa) of the said section 56, the following clauses shall be substituted, namely:-

'(zaa) after section 36AA of the principal Act, the following sections shall be inserted, namely:-

"36AAA. **Supersession of Board of diectors of a multi-State co-operative bank**.- (1) Where the Reserve Bank is satisfied that in the public interest or for preventing the affairs of a multi-State co-operative bank being conducted in a manner detrimental to the interest of the depositors or of the multi-State co-operative bank or for securing the proper management of the multi-State co-operative bank, it is necessary so to do, the Reserve Bank may, for reasons to be recorded in writing, by order, supersede the Board of directors of such multi-State co-operative bank for a period not exceeding five years as may be specified in the order, which may be extended from time to time, so, however, that total period shall not exceed five years.

(2) The Reserve Bank may, on supersession of the Board of directors of the multi-State co-operative bank under sub-section (1) appoint an Administrator for such period as it may determine.

(3) The Reserve Bank may issue such directions to the Administrator as it may deem appropriate and the Administrator shall be bound to follow such directions.

(4) Upon making the order of supersession of the Board of directors of a multi-State co-operative bank,-

(a) the chairman, managing director and other directors as from the date of supersession of the Board shall vacate their offices as such;

(b) all the powers, functions and duties which may, by or under the provisions of the Multi-State Co-operative Societies Act, 2002 (39 of 2002) or this Act or any other law for the time being in force, be exercised and discharged by or on behalf of the Board of directors of such a multi-State co-operative bank or by a resolution passed in general meeting of such co-operative bank, shall, until the Board of directors of such co-operative bank is reconstituted, be exercised and discharged by the Administrator appointed by the Reserve Bank under sub-section (2):

Provided that the power exercised by the Administrator shall be valid notwithstanding that such power is exercisable by a resolution passed in the general meeting of such multi-State co-operative bank.

(5) (a) The Reserve Bank may constitute a committee of three or more persons who have experience in law, finance, banking, administration or accountancy to assist the Administrator in discharge of his duties.

(b) The committee shall meet at such times and places and observe such rules of procedure as may be specified by the Reserve Bank.

(6) The salary and allowances to the Administrator and the members of the committee constituted by the Reserve Bank shall be such as may be specified by the Reserve Bank and be payable by the concerned multi-State co-operative bank.

(7) On and before expiration of period of supersession of the Board of directors as specified in the order issued under sub-section (1), the Administrator of the multi-State co-operative bank shall call the general meeting of the society to elect new directors.

(8) Notwithstanding anything contained in any other law or in any contract, or bye-laws of a multi-State co-operative bank, no person shall be entitled to claim any compensation for the loss or termination of his office.

(9) The Administrator appointed under sub-section (2) shall vacate office immediately after the Board of directors of the multi-State co-operative society has been constituted.

36AAB. **Order of winding up of multi-State co-operative bank to be final in certain cases**.- Where a multi-State co-operative bank, being an eligible cooperative bank, has been registered under section 13A of the Deposit Insurance and Credit Guarantee Corporation Act, 1961 (47 of 1961), as an insured bank, and subsequently-

(a) in pursuance of a scheme prepared with the previous approval of the Reserve Bank under section 18 of the Multi-State Co-operative Societies Act, 2002 (39 of 2002), an order sanctioning a scheme of compromise and arrangement or reorganization or reconstruction has been made; or

(b) on requisition by the Reserve Bank, an order for winding up of the multi-State co-operative bank of has been made under section 87 of the Multi-State Co-operative Societies Act, 2002 (39 of 2002); or

(c) an order for the supersession of the Board and the appointment of an Administrator therefore has been made under section 36AAA,

such order for sanctioning the scheme of compromise and arrangement or reorganization or reconstruction under clause (a) or the winding up of the multi-State co-operative bank under clause (b) or an order for the supersession of the Board and the appointment of an Administrator under clause (c) shall not be liable to be called in question in any manner.

36AAC. **Reimbusement to Deposit Insurance Corporation by liquidator or transferee bank**.-Where a multi-State co-operative bank, being an insured bank within the meaning of the Deposit Insurance and Credit Guarantee Corporation Act, 1961 (47 of 1961), is wound up and the Deposit Insurance Corporation has become liable to the depositors' of the insured bank under sub-section (1) or sub-section (2) of section 16 of that Act, the Deposit Insurance Corporation shall be reimbursed by the

liquidator or such other person in the circumstances, to the extent and in the manner provided in section 21 of that Act.";

(zab) in section 36AD, sub-section (3) shall be omitted;';

(IV) in clause (zb) of the said section 56, for the word, figures and letter "Part IIA", the words, figures and letters "Part IIA except sections 36AAA, 36AAB and 36AAC" shall be substituted.

CHAPTER III

AMENDMENTS TO THE DEPOSIT INSRUANCE AND CREDIT GUARANTEE CORPORATION ACT, 1961

3. **Amendment of section 2** .-In the Deposit Insurance and Credit Guarantee Corporation Act, 1961 (47 of 1961), in section 2,-

(a) in clause (q), the words "co-operative society" shall be omitted and shall be deemed to have been omitted with effect from the 1st day of March, 1966;

(b) in clause (r), for the words "primary co-operative bank", the words "co-operative society", "primary co-operative bank" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of March, 1966.

A.P.J. ABDUL KALAM
President.

V. K. BHASIN,
Joint Secretary to the Govt. of India

CORRIGENDUM

In the Unlawful Activities (Prevention) Amendment Ordinance, 2004 (Ord. 2 of 2004), published in the Gazette of India, Extraordinary, Part II, Section 1 (Issue No. 31), dated the 21st September, 2004,-

At page 17, at the top insert "**THE SCHEDULE**"

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ,

ಕೆ. ನೀಲಕಂಠಾಚಾರ್

ಸಹಾಯಕ ಪ್ರಾರೂಪಕಾರ ಮತ್ತು ಪದನಿಮಿತ್ತ

PR-212 ಸರ್ಕಾರದ ಅಧೀನ ಕಾರ್ಯದರ್ಶಿ (ಪ್ರಭಾರ),

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ.

ಅಧಿಸೂಚನೆ

ಸಂಖ್ಯೆ: ಸಂವ್ಯಶಾಇ 48 ಕೇನಿಪ್ರ 2003, ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 22ನೇ ಸೆಪ್ಟೆಂಬರ್ 2003

2003ನೇ ಸಾಲಿನ ಸೆಪ್ಟೆಂಬರ್ 8ನೇ ದಿನಾಂಕದ ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟ್‌ನ ವಿಶೇಷ ಸಂಚಿಕೆಯ ಭಾಗ-II ಸೆಕ್ಷನ್ 1 ರಲ್ಲಿ ಪ್ರಕಟವಾದ ಈ ಕೆಳಕಂಡ The Taxation Laws (Amendment) ordinance-2003 (No. 2 of 2003) ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯ ಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, dated the 8th September, 2003/Bhadra 17, 1925 (Saka)

THE TAXATION LAWS (AMENDMENT) ORDINANCE, 2003

No. 2 OF 2003

Promulgated by the President in the Fifty-forth Year of the Republic of India.

An Ordinance further to amend the Income-tax Act, 1961, the Wealth-tax Act, 1957 and the Expenditure-tax Act, 1987.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action ;

NOW THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance :-

CHAPTER I

PRELIMINARY

1. **Short title and commencement**.-(1) This Ordinance may be called the Taxation Laws (Amendment) Ordinance, 2003.

(2) Save as otherwise provided in this Ordinance, it shall come into force at once.

CHAPTER II

AMENDMENTS TO THE INCOME-TAX ACT, 1961

2. **Amendment of section 10**.-In section 10 of the Income-tax Act, 1961 (43 of 1961) (hereafter referred to as the Income-tax Act), in clause (15),-

(A) after sub-clause (iiia), the following sub-clause shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 2001, namely:-

"(iiib) interest payable to the Nordic Investment Bank, being a multilateral financial institution constituted by the Governments of Denmark, Finland, Iceland, Norway and Sweden, on a loan advanced

by it to a project approved by the Central Government in terms of the Memorandum of Understanding entered into by the Central Government with that Bank on the 25th day of November, 1986;";

(B) in sub-clause (iv),-

(a) in item (c), the existing Explanation shall be numbered as Explanation 1 thereof and after Explanation 1 as so numbered, the following Explanation shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1962, namely:-

"Explanation 2.-For the removal of doubts, it is hereby declared that the usance interest payable outside India by an undertaking engaged in the business of ship-breaking in respect of purchase of a ship from outside India shall be deemed to be the interest payable on a debt incurred in a foreign country in respect of the purchase outside India;";

(b) in the Explanation 1 occurring below item (i), after clause (d), the following clause shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1991, namely:-

"(da) the business of ship-breaking; or".

3. **Insertion of new section 10BA**.- After section 10B of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2004, namely:-

'10BA. **Special provisions in respect of export of certain articles or things**.-(1) Subject to the provisions of this section, a deduction of such profits and gains as are derived by an undertaking from the export out of India of eligible articles or things, shall be allowed from the total income of the assessee:

Provided that where in computing the total income of the undertaking for any assessment year, deduction under section 10A or section 10B has been claimed, the undertaking shall not be entitled to the deduction under this section:

Provided further that no deduction under this section shall be allowed to any undertaking for the assessment year beginning on the 1st day of April, 2010 and subsequent years.

(2) This section applies to any undertaking which fulfils the following conditions, namely:-

(a) it manufactures or produces the eligible articles or things without the use of imported raw materials;

(b) it is not formed by the splitting up, or the reconstruction, of a business already in existence:

Provided that this condition shall not apply in respect of any undertaking which is formed as a result of the re-establishment, reconstruction or revival by the assessee of the business of any such undertaking as is referred to in section 33B, in the circumstances and within the period specified in that section;

(c) it is not formed by the transfer to a new business of machinery or plant previously used for any purpose.

Explanation.-The provisions of Explanation 1 and Explanation 2 to subsection (2) of section 80-I shall apply for the purposes of this clause as they apply for the purposes of clause (ii) of sub-section (2) of that section;

(d) ninety per cent. or more of its sales during the previous year relevant to the assessment year are by way of exports of the eligible articles or things;

(e) it employs twenty or more workers during the previous year in the process of manufacture or production.

(3) This section applies to the undertaking, if the sale proceeds of the eligible articles or things exported out of India are received in or brought into, India by the assessee in convertible foreign exchange, within a period of six months from the end of the previous year or, within such further period as the competent authority may allow in this behalf.

Explanation.-For the purposes of this sub-section, the expression "competent authority" means the Reserve Bank of India or such other authority as is authorised under any law for the time being in force for regulating payments and dealings in foreign exchange.

(4) For the purposes of sub-section (1), the profits derived from export out of India of the eligible articles or things shall be the amount which bears to the profits of the business of the undertaking, the same proportion as the export turnover in respect of such articles or things bears to the total turnover of the business carried on by the undertaking.

(5) The deduction under sub-section (1) shall not be admissible, unless the assessee furnishes in the prescribed form, along with the return of income, the report of an accountant, as defined in the Explanation below sub-section (2) of section 288, certifying that the deduction has been correctly claimed in accordance with the provisions of this section.

(6) Notwithstanding anything contained in any other provision of this Act, where a deduction is allowed under this section in computing the total income of the assessee, no deduction shall be allowed under any other section in respect of its export profits.

(7) The provisions of sub-section (8) and sub-section (10) of section 80-IA shall, so far as may be, apply in relation to the undertaking referred to in this section as they apply for the purposes of the undertaking referred to in section 80-IA.

Explanation.-For the purposes of this section,-

(a) "convertible foreign exchange" means foreign exchange which is for the time being treated by the Reserve Bank of India as convertible foreign exchange for the purposes of the Foreign Exchange Management Act, 1999 (42 of 1999), and any rules made thereunder or any other corresponding law for the time being in force;

(b) "eligible articles or things" means all hand-made articles or things, which are of artistic value and which requires the use of wood as the main raw material;

(c) "export turnover" means the consideration in respect of export by the undertaking of eligible articles or things received in, or brought into, India by the assessee in convertible foreign exchange in accordance with sub-section (3), but does not include freight, telecommunication charges or insurance attributable to the delivery of the articles or things outside India;

(d) "export out of India'' shall not include any transaction by way of sale or otherwise, in a shop, emporium or any other establishment situate in India, not involving clearance of any customs station as defined in the Customs Act, 1962 (52 of 1962).'.

4. **Amendment of section 115P**.- In section 115P of the Income-tax Act, for the words "one and one-fourth per cent.", the words "one percent." shall be substituted.

5. **Amendment of section 115S**.- In section 115S of the Income-tax Act, for the words "one and one-fourth per cent.", the words "one percent." shall be substituted.

6. **Amendment of section 132B**.-In section 132B of the Income-tax Act, in sub-section (4), in clause (a), for the words "eight per cent.", the words "six per cent." shall be substituted.

7. **Amendment of section 158BFA**.- In section 158BFA of the Income-tax Act, in sub-section (1), for the words "one and one-fourth per cent.", the words "one per cent." shall be substituted.

8. **Amendment of section 201**.- In section 201 of the Income-tax Act, in sub-section (1A), for the words "fifteen per cent.", the words "twelve per cent." shall be substituted.

9. **Amendment of section 206C**.- In section 206C of the Income-tax Act,-

(a) in sub-section (1),-

(i) for the Table, the following Table shall be substituted, namely:-

"TABLE

Sl. No.	Nature of goods	Percentage
(1)	(2)	(3)
(i)	Alcoholic liquor for human consumption	One per cent.
(ii)	Tendu leaves	Five per cent.
(iii)	Timber obtained under a forest lease	Two and one-half per cent.
(iv)	Timber obtained by any mode other than under a forest lease	Two and one-half per cent.
(v)	Any other forest produce not being timber or tendu leaves	Two and one-half per cent.
(vi)	Scrap	One per cent. : ";

(ii) for the proviso below the Table, the following proviso shall be substituted, namely:-

"Provided that every person, being a seller shall at the time, during the period beginning on the 1st day of June, 2003 and ending on the day immediately preceding the date on which the Taxation Laws (Amendment) Ordinance, 2003 comes into force, of debiting of the amount payable by the buyer to the account of the buyer or of receipt of such amount from the said buyer in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, collect from the buyer of any goods of the nature specified in column (2) of the Table as it stood immediately before the 1st day of June, 2003, a sum equal to the percentage, specified in the corresponding entry in column (3) of the said Table, of such amount as income-tax in accordance with the provisions of this section as they stood immediately before the 1st day of June, 2003.";

(b) after sub-section (1), the following sub-sections shall be inserted, namely:-

"(1A) Notwithstanding anything contained in sub-section (1), no collection of tax shall be made in the case of a buyer, who is resident in India, if such buyer furnishes to the person responsible for collecting tax, a declaration in writing in duplicate in the prescribed form and verified in the prescribed manner to the effect that the goods referred to in column (2) of the aforesaid Table are to be utilised for the purposes of manufacturing, processing or producing articles or things and not for trading purposes.

(1B) The person responsible for collecting tax under this section shall deliver or cause to be delivered to the Chief Commissioner or Commissioner one copy of the declaration referred to in sub-section (1A) on or before the seventh day of the month next following the month in which the declaration is furnished to him.";

(c) in sub-section (3), for the words "seven days", the words "the prescribed time" shall be substituted;

(d) in sub-section (5), for the words "ten days from the date of debit", the words "such period as may be prescribed from the time of debit" shall be substituted;

(e) in sub-section (7), for the words "one and one-fourth per cent.", the words "one per cent." shall be substituted;

(f) in the Explanation occurring at the end, in clause (a), for subclauses (i) and (ii), the following sub-clauses shall be substituted, namely:-

"(i) a public sector company, the Central Government, a State Government, and an embassy, a high commission, legation, commission, consulate and the trade representation, of a foreign State and a club; or

(ii) a buyer in the retail sale of such goods purchased by him for personal consumption;".

10. **Amendment of section 220**.-In section 220 of the Income-tax Act, in sub-section (2), for the words "one and one-fourth per cent.", the words "one per cent." shall be substituted.

11. **Amendment of section 230**.- In section 230 of the Income-tax Act, in sub-section (2), after the word, brackets and figure "sub-section (1)", the words, brackets, figure and letter "or the first proviso to subsection (1A)" shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 2003.

12. **Amendment of section 234A**.- In section 234A of the Income-tax Act, in sub-sections (1) and (3), for the words "one and one-fourth per cent.", the words "one per cent." shall be substituted.

13. **Amendment of section 234B**.-In section 234B of the Income-tax Act, in sub-sections (1) and (3), for the words "one and one-fourth per cent.", the words "one per cent." shall be substituted.

14. **Amendment of section 234C**.-In section 234C of the Income-tax Act, in sub-section (1),-

(i) in clause (a), in sub-clauses (i) and (ii), for the words "one and one-fourth per cent.", the words "one per cent." shall be substituted;

(ii) in clause (b), in sub-clauses (i) and (ii), for the words "one and one-fourth per cent.", the words "one per cent." shall be substituted.

15. **Amendment of section 234D**.-In section 234D of the Income-tax Act, in sub-section (1), for the words "two-third per cent.", the words "one-half per cent." shall be substituted.

16. **Amendment of section 244A**.- In section 244A of the Income-tax Act, in sub-section (1), in clauses (a) and (b), for the words "two-third per cent.", the words "one-half per cent." shall be substituted.

17. **Amendment of section 272A**.-In section 272A of the Income-tax Act, in sub-section (2), after clause (i), the following clause shall be inserted, namely:-

"(j) to deliver or cause to be delivered in due time a copy of the declaration referred to in sub-section (1A) of section 206C,".

18. **Amendment of Second Schedule**.-In the Second Schedule to the Incometax Act, in rule 68A, in sub-rule (3), for the words "eight per cent.", the words "six per cent." shall be substituted.

CHAPTER III

AMENDMENTS TO THE WEALTH-TAX ACT, 1957

19. **Amendment of section 17B**.- In section 17B of the Wealth-tax Act, 1957 (27 of 1957) (hereafter referred to as the Wealth-tax Act), in sub-sections (1) and (3), for the words "one and onefourth per cent.", the words "one per cent." shall be substituted.

20. **Amendment of section 31**.- In section 31 of the Wealth-tax Act, in sub-section (2),-

(a) for the words "one and one-fourth per cent.", the words "one percent." shall be substituted;

(b) in the second proviso, for the words "one and one-fourth percent.", the words "one per cent." shall be substituted.

21. **Amendment of section 34A**.-In section 34A of the Wealth-tax Act,-

(a) in sub-section (3), for the words "eight per cent.", the words "six per cent." shall be substituted;

(b) in sub-section (4B), in clause (a), for the words "two-third per cent.", the words "one-half per cent." shall be substituted.

CHAPTER IV

AMENDMENT TO THE EXPENDITURE-TAX ACT, 1987

22. **Amendment of section 14 of Act 35 of 1987**.- In section 14 of the Expenditure-tax Act, 1987, for the words "one and one-fourth per cent.", the words "one per cent." shall be substituted.

A.P.J. ABDUL KALAM
President.
SUBHASH C. JAIN,
Secy. to the Govt. of India

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ,
ಎಲ್. ಸಿದ್ದಯ್ಯ
ಸಹಾಯಕ ಪ್ರಾರೂಪಕಾರ ಮತ್ತು ಪದನಿಮಿತ್ತ
ಸರ್ಕಾರದ ಉಪ ಕಾರ್ಯದರ್ಶಿ,
ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ.

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